

BAKER & DANIELS

EST. 1863

111 E. WAYNE STREET, SUITE 800 · FORT WAYNE, INDIANA 46802 · (260) 424-8000 · FAX (260) 460-1700 · www.bakerdaniels.com

H. JOHN OKESON  
DIRECT (260) 460-1654  
DIRECT FAX (260) 423-6254  
e mail: hokeson@bakerd.com

FORT WAYNE  
INDIANAPOLIS  
SOUTH BEND  
ELKHART  
WASHINGTON, D.C.  
QINGDAO, P.R. CHINA

April 15, 2002

RECEIVED

APR 16 2002

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Office of the Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

94-102

Re: *Informal Complain Concerning VoiceStream Wireless*

Dear Secretary:

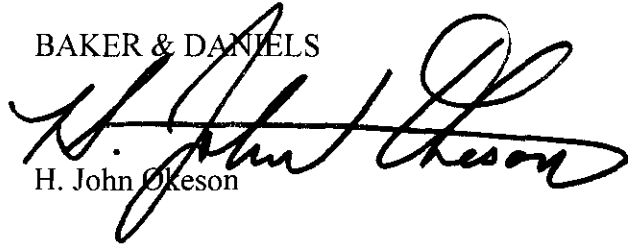
Enclosed are two (2) originals and four (4) copies of the Indiana Wireless Enhanced 911 Advisory Board's Informal Complaint concerning VoiceStream Wireless. Please file stamp and return the copies to my colleague filing these documents on my behalf. The original documents should be directed to the Commission's Enforcement Bureau.

Thank you for your assistance with this matter. Please advise my colleague if you have questions or feel free to contact me at (260) 460-1654 if you require additional information.

Very truly yours,

BAKER & DANIELS

H. John Okeson



HJO:tlw

Enclosures

c: Hon. Tim Berry, Board Chair

No. of Copies rec'd  
List ABCDE

ot/

BAKER & DANIELS

EST. 1863

111 E. WAYNE STREET, SUITE 800 · FORT WAYNE, INDIANA 46802 · (260) 424-8000 · FAX (260) 460-1700 · www.bakerdaniels.com

H. JOHN OKESON  
DIRECT (260) 460-1654  
DIRECT FAX (260) 423-6254  
e-mail: hokeson@bakerd.com

FORT WAYNE  
INDIANAPOLIS  
SOUTH BEND  
ELKHART  
WASHINGTON, D.C.  
QINGDAO, P.R. CHINA

April 15, 2002

RECEIVED

APR 16 2002

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Office of the Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

94-102 ✓

Re: *Informal Complain Concerning VoiceStream Wireless*

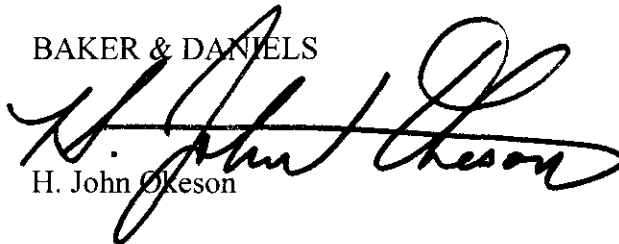
Dear Secretary:

Enclosed are two (2) originals and four (4) copies of the Indiana Wireless Enhanced 911 Advisory Board's Informal Complaint concerning VoiceStream Wireless. Please file stamp and return the copies to my colleague filing these documents on my behalf. The original documents should be directed to the Commission's Enforcement Bureau.

Thank you for your assistance with this matter. Please advise my colleague if you have questions or feel free to contact me at (260) 460-1654 if you require additional information.

Very truly yours,

BAKER & DANIELS

  
H. John Okeson

HJO:tlw

Enclosures

c: Hon. Tim Berry, Board Chair

No. of Copies rec'd  
List ABCDE

ot 1

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

RECEIVED

APR 16 2002

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )

Revision of the Commission's Rules )

To Ensure Compatibility with )

Enhanced 911 Emergency )

Calling Systems )

CC Docket No. 94-102

**INDIANA WIRELESS ENHANCED  
911 ADVISORY BOARD INFORMAL COMPLAINT  
CONCERNING VOICESTREAM WIRELESS**

At its meeting on April 5, 2002, the Indiana Wireless Enhanced 911 Advisory Board ("Board") voted 7-0 to file this Informal Complaint with the Federal Communications Commission ("Commission") against VoiceStream Wireless ("VoiceStream"). This Informal Complaint addresses VoiceStream's failure to deploy Phase I enhanced 911 service in any Indiana county in its service area in violation of the Commission's orders related to CC Docket No. 94-102 as clarified in the *City of Richardson* order.<sup>1</sup> The Board hereby requests the Commission to investigate this Informal Complaint and to take appropriate remedial action against VoiceStream to enforce the Commission's orders.

**I. Indiana Background**

The Board was created when the Indiana General Assembly adopted the Indiana Enhanced Wireless Emergency Telephone Service Act in 1998.<sup>2</sup> The Governor appoints the Board's members, which include five Public Safety Answering Point ("PSAP") representatives from various regions of Indiana and five wireless carrier representatives. The Treasurer of State serves as the Chairman of the Board *ex officio* but may only vote to break ties.<sup>3</sup> Although representatives of Cingular Wireless, Verizon Wireless, and

<sup>1</sup> *In the Matter of Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, City of Richardson Petition for Declaratory Ruling and/or Clarification*, FCC 01-293 (Adopted October 2, 2001, and released October 17, 2001).

<sup>2</sup> IC 36-8-16.5 et seq.

<sup>3</sup> SEA 180, adopted during the 2002 legislative session and signed into law by the Governor, will reduce the number of members of the Board to three PSAP representatives and three carrier representatives on July 1, 2002. The act also will imbue the Treasurer of State with full voting rights on the Board.

Sprint PCS serve on the Board, there are currently two vacancies among the five seats reserved for wireless carriers.

The Board administers the Indiana Wireless Emergency Telephone System Fund ("Fund"). The Fund is financed by a monthly surcharge, currently set at \$0.65 per month, which is collected by each wireless carrier from subscribers in the state.<sup>4</sup> The Board uses the Fund to reimburse PSAPs and wireless carriers for costs incurred to comply with the Commission's E911 service requirements.

## **II. CC Docket No. 94-102 and the *City of Richardson* Order**

Through the initial Report and Order<sup>5</sup> and its progeny, the Commission established and then revised its mandate that wireless carriers deploy Phase I and Phase II coverage. The Commission clarified its expectations and the obligations of wireless carriers and PSAPs in its recent *City of Richardson* decision. The Commission's order clearly stated "that a wireless carrier must implement E911 within the six-month period following the date of the PSAP's request."<sup>6</sup> This deadline to turn on service applies unless the wireless carrier challenges the validity of a PSAP request. The Board is unaware of any VoiceStream challenge to an Indiana PSAP service request.

Even if VoiceStream contested the validity of requests for service, the *City of Richardson* order established three criteria to determine if the PSAP's request for service will withstand a challenge from a wireless carrier. According to the Commission's order:

a wireless carrier must implement E911 within the six-month period following the date of the PSAP's request if the PSAP making the request demonstrates that: (a) a mechanism is in place by which the PSAP will recover its costs of the facilities and equipment necessary to receive and utilize the E911 data elements; (b) the PSAP has ordered the equipment necessary to receive and utilize the E911 data and the equipment will be installed and capable of receiving and utilizing that data no later than six months following its request; and (c) the PSAP had made a timely request to the local exchange carrier (LEC) for the necessary trunking and other facilities to enable the E911 data to be transmitted to the PSAP. In the alternative, a challenged PSAP may demonstrate that a funding mechanism is in place, that it is Phase I-capable using a Non-call Associated Signaling (NCAS) technology, and that it has made a timely request to the appropriate LEC for the upgrade to the ALI database necessary to enable the PSAP to receive the Phase II data.<sup>7</sup>

The Board asserts that the Commission's criteria are met when applied to Indiana PSAPs requesting E911 service from VoiceStream. The Board provides full cost

<sup>4</sup> Under SEA 180, wireless providers will begin collecting the monthly surcharge or its equivalent from all prepaid wireless customers as well. This provision takes effect on January 1, 2003.

<sup>5</sup> CC Docket No. 94-102 (Adopted June 12, 1996, and released July 26, 1996).

<sup>6</sup> *City of Richardson* order, FCC 01-293 at page 1.

<sup>7</sup> *City of Richardson* order, FCC 01-293, Appendix C.

recovery for PSAPs that incur expenses related to improvements for E911 facilities and equipment. Ninety of Indiana's ninety-two counties currently receive Phase I service through at least one wireless carrier,<sup>8</sup> demonstrating that these counties meet the technical requirements clarified by the Commission in the *City of Richardson* order.

Finally, the Board surveyed PSAPs in July 2001 and found that more than thirty PSAPs were ready to receive Phase II service.<sup>9</sup> VoiceStream is long overdue in meeting its obligations to Indiana citizens and PSAPs in accordance with the Commission's orders.<sup>10</sup>

### **III. VoiceStream Deployment Status in Indiana**

The Board has worked with VoiceStream and Indiana PSAPs to encourage the carrier to deploy Phase I service.

#### **A. PSAP Requests for VoiceStream Service**

VoiceStream currently provides mobile telephone service in approximately sixty-six of Indiana's ninety-two counties.<sup>11</sup> According to VoiceStream's records, the carrier has failed to meet the Commission's six-month deadline for deployment in at least thirty-four counties in its coverage area.

The Board's files include requests from thirty-four Indiana PSAPs to VoiceStream for Phase I service and another twenty-two requests for Phase II coverage.<sup>12</sup> VoiceStream's own submissions to the Board, however, state that it has received fifty requests for Phase I service, many of them submitted in 1999 and 2000. In fact, VoiceStream's own records indicate that its first request for Phase I service in Indiana was submitted by the New Albany Police Department for Floyd County on September 29, 1997, more than four years ago. In addition, VoiceStream's records reflect that twenty-seven PSAPs have requested Phase II service. VoiceStream's most recent listing of Phase I and Phase II requests is attached as Exhibit A.<sup>13</sup> The Board also attaches its most recent statewide Phase I coverage map as Exhibit B to illustrate the deployments completed by other wireless carriers since the first PSAP turned on Phase I coverage in 1998.

---

<sup>8</sup> Two Indiana counties, Parke and Martin, still do not have consolidated land line 911 services. Parke County is making progress toward deploying 911 capability and plans to offer E911 service later this year.

<sup>9</sup> "Phase II Readiness Survey," Indiana Wireless Enhanced 911 Advisory Board, July 16, 2001.

<sup>10</sup> *City of Richardson* established the conditions for carriers to deploy E911 service and addressed a challenge by VoiceStream to a PSAP request for service.

<sup>11</sup> E-mail from Ms. Lynn Mell, VoiceStream Manager of Regulatory Affairs, to David Certo, executive director of the Board, April 9, 2002. Some other counties also have "no significant coverage," according to VoiceStream.

<sup>12</sup> Review of the Board's file copies of PSAP letters requesting Phase I and Phase II service from VoiceStream, April 10, 2002.

<sup>13</sup> Submitted to the Board by VoiceStream via e-mail attachment on April 9, 2002.

**B. The Board's Efforts to Encourage VoiceStream E911 Deployments**

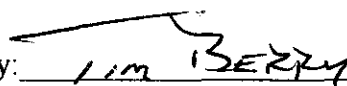
The Board has worked diligently in its attempts to communicate with VoiceStream and to assist it in deploying E911 service. The Board has met repeatedly with VoiceStream representatives, both at the Board's regular meetings and at VoiceStream's headquarters in Washington, in efforts to facilitate deployments. In addition, the Board has requested VoiceStream to commit to a firm schedule of deployments in Indiana with dates for deployment by county. VoiceStream has expressly refused to submit a detailed deployment schedule to the Board and has yet to provide any Phase I coverage in Indiana.

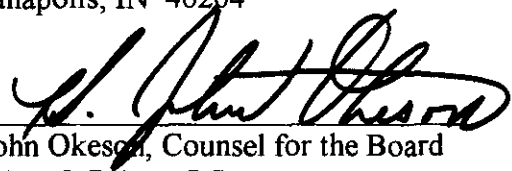
**V. Request for Relief**

Because of VoiceStream's failure to comply with the Commission's order and its refusal to satisfy the Board's requests for commitments to deploy, the Board respectfully asks the Commission to investigate this Informal Complaint. The Board further requests that the Commission take appropriate remedial action to enforce its orders and to compel VoiceStream to deploy E911 service in Indiana.

Respectfully submitted,

Indiana Wireless Enhanced 911  
Advisory Board

By:   
The Hon. Tim Berry, Board Chairman  
Treasurer of the State of Indiana  
242 State House  
Indianapolis, IN 46204

By:   
H. John Okeson, Counsel for the Board  
BAKER & DANIELS  
111 East Wayne Street, Suite 800  
Fort Wayne, IN 46802  
Telephone: (219) 424-8000

Informal Complaint Concerning VoiceStream Wireless- Attachment A

## VoiceStream Wireless

County	Coverage	PSAP Request- Phase I	PSAP Request Date Phase 1	Deployed- Phase I	PSAP Request- Phase II	Deployed- Phase II	If Not Deployed- Current Status
Adams	x	x	01/14/2002		x		
Allen	x	x	02/02/2001		x		
Bartholomew	x	x	04/23/1999				
Bell		x	12/12/2000				no significant coverag
Berkeley		x	09/14/1999		x		no coverage
Boone	x		no request				
Brown							no coverage
Carroll	x	x	04/09/2001				
Cass	x	x	11/02/2001		x		
Clark	x	x	09/30/1997		x		
Clay	x	x	02/06/2000				
Clinton	x	x	10/02/2001				
Crawford	x		no request				
Daviess	x		no request				
Dearborn	x		no request				
Decatur	x	x	02/01/1999				
DeKalb	x	x	11/12/1998		x		
Delaware	x	x	06/21/2001		x		
DuBois	x	x	01/09/2002				
Elkhart	x	x	03/11/1999				
Franklin							no coverage
Floyd	x	x	09/29/1997				
Gallatin							no coverage
Garrett		x	04/13/2001		x		no significant coverag
Fulton	x		no request				
Gibson	x	x	02/16/2001		x		
Grant	x	x	01/10/2001		x		
Greene							no coverage
Hamilton	x	x	02/03/1999				
Hancock	x	x	01/31/2001		x		
Harrison	x		no request				
Hendricks	x	x	06/18/2001				
Henry	x	x	12/10/2001		x		
Howard	x	x	03/25/1999				
Huntington	x	x	01/23/2001		x		
Jackson	x		no request				
Jasper	x		no request				
Jay							no coverage
Jefferson	x	x	04/20/2001				
Jennings		x			x		no significant coverag
Johnson	x	x	01/02/2002		x		
Knox	x	x	10/23/2001		x		
Kosciusko	x	x	07/13/2000		x		
LaGrange	x	x	01/18/2001				
Lake	x	x	11/09/2000				

LaPorte	x	x	12/04/2000					
Lafayette		x	04/16/2001	x				no coverage
Madison	x	x	04/17/2001		x			
Marion	x	x	03/08/2002		x			
Marshall	x		no request					
Martin								no coverage
Miami	x	x	07/12/2000					
Monroe	x	x	08/23/2001					
Montgomery	x	x	09/13/2001		x			
Morgan	x	x	12/27/2001					
Muskegon		x	01/16/2002					no significant coverag
Noble								no coverage
Ohio	x		no request					
Oregon								no coverage
Owen								no coverage
Parke								no coverage
Perry	x	x	02/07/2002		x			
Pike								no significant coverag
Porter	x	x	11/05/2001					
Potter								no coverage
Prentiss		x	07/18/2001					no coverage
Putnam	x	x	11/07/2001		x			
Randolph		x	11/06/2001					no coverage
Ripley	x	x	04/11/2001		x			
Rush	x		no request					
Scott	x	x	01/22/2001		x			
Shelby	x		no request					
Spencer	x	x	12/14/2001					
St Joseph	x		02/25/2002		x			
Starke	x	x	01/18/2001		x			
Steuben	x	x	03/22/1999		x			
Sullivan		x	02/13/2001					no coverage
Tarrant								no significant coverag
Tippecanoe	x	x	03/25/2002		x			
Tipton	x		no request					
Union								no coverage
Vanderburgh	x	x	01/16/2002					
Vanderburgh								no coverage
Vigo	x	x	09/21/2000					
Washtenaw		x	11/14/2001		x			no coverage
Warren								no coverage
Warrick	x	x	01/04/2001					
Washington	x		no request					no significant coverag
Wayne	x	x	11/02/2001		x			
Wells	x	x	11/02/2001		x			
White	x		no request					
Whitley	x	x	10/10/2000					

Last Updated on 04/09/02



**Informal complaint concerning Voicestream Wireless—Attachment B 04/12/2002**

**INDIANA WIRELESS ENHANCED 911 ADVISORY BOARD  
PHASE I DEPLOYMENT**

